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14 Attorneys for Defendant
Micron Technology, Inc.

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

19 SONYA VALENZUELA, individually
and on behalf of all others similarly
20 situated,

21 Plaintiff

22 v.

23 MICRON TECHNOLOGY, INC., a
Delaware corporation d/b/a
24 WWW.CRUCIAL.COM,

25 Defendant.

Case No. 2:23-cv-07058-FMO-PVC

**DECLARATION OF REBECCA
HARLOW IN SUPPORT OF
DEFENDANT MICRON
TECHNOLOGY, INC.'S MOTION
TO DISMISS PLAINTIFF'S
SECOND AMENDED CLASS
ACTION COMPLAINT**

Hearing Date: Sept. 19, 2024

Time: 10:00 a.m.

Dept: Courtroom 6D

Judge: Hon. Fernando M. Olguin

1 I, Rebecca Harlow, declare as follows:

2 I am a member of the California State Bar, admitted to practice before
3 this Court. I am a partner at Orrick, Herrington & Sutcliffe LLP, and counsel of
4 record for Defendant Micron Technology, Inc. ("Micron" or "Defendant"). I make
5 this declaration in support of Micron's Motion Pursuant to Federal Rule of Civil
6 Procedure 12(b)(6) to Dismiss Plaintiff's Second Amended Class Action Complaint
7 ("Motion"). I am familiar with the events, pleadings, and discovery in this action
8 and, if called as a witness, I could and would testify competently to the matters stated
9 herein of my own personal knowledge.

10 1. In its Order dismissing the First Amended Complaint ("FAC"), the
11 Court instructed Plaintiff to "carefully evaluate the contentions set forth in defendant's
12 Motion" to dismiss the FAC, then file new pleadings "attempting to cure the alleged
13 defects outlined in defendant's Motion." ECF 38 ("Dismissal Order"), at 2.

14 2. The Dismissal Order also ordered the parties to meet and confer to
15 discuss Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint
16 ("SAC"). *Id.* at 3. Accordingly, I spoke with Plaintiff's counsel, Matthew R. Snyder,
17 for approximately 20 minutes via Zoom on July 22, 2024 at 1:30 p.m.

18 3. In that call, I explained Micron's position that the new factual
19 allegations in the SAC attempted to cure only one of many defects Micron identified
20 in its Motion to Dismiss the FAC, namely, Plaintiff's failure to allege that Salesforce
21 acted as an independent party in accessing her communications, as required for
22 Salesforce to violate Cal. Penal Code § 631(a). Plaintiff's counsel agreed that this was
23 the focus of the SAC's amendments to the FAC and explained that Plaintiff did not
24 expect or intend the SAC to alter the claims or the parties' arguments regarding the
25 other defects in the FAC that Micron's Motion to Dismiss the FAC had identified.

26 4. Plaintiff's counsel indicated Plaintiff's interest in appealing the Court's
27 Order dismissing Plaintiff's FAC because the arguments regarding the remaining
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1 issues would not change, but Plaintiff instead decided to take the opportunity to refine
2 her factual allegations addressing Salesforce's status as an independent party under
3 Cal. Penal Code § 631(a).

4 5. I then explained Micron's position as to the remaining causes of action
5 in the SAC and the arguments in Micron's Motion to Dismiss the FAC, namely that
6 the new factual allegations in the SAC did nothing to affect the validity of Plaintiff's
7 claims under Cal. Penal Code § 631 (and attempted to add support only for the
8 application of the party exception), the federal Wiretap Act claims under 18 U.S.C.
9 § 2510, *et seq.*, the Cal. Penal Code § 502 claims, and the constitutional and common
10 law invasion of privacy claims. Plaintiff's counsel agreed with this position. I
11 reviewed with counsel the arguments advanced in Micron's Motion to Dismiss the
12 FAC and stated that Micron intended to raise the same arguments in response to the
13 SAC because the additional allegations were irrelevant to such arguments.

14 6. Plaintiff's counsel indicated Plaintiff's understanding of Micron's
15 position and disagreement with the legal positions that Micron advanced.

16 7. As a result of the meet-and-confer discussion, it appeared that both
17 parties understood the positions advanced by the other party. However, Micron was
18 unwilling to abandon any of its arguments for dismissal, and Plaintiff was unwilling
19 to concede any basis for dismissal and did not offer any further amendment to the
20 Complaint.

21 I declare under penalty of perjury under the laws of the United States of
22 America that the foregoing is true and correct.

23 Executed this 5th day of August, 2024, in Berkeley, California.

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REBECCA HARLOW

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DECLARATION OF REBECCA HARLOW
IN SUPPORT OF MOTION TO DISMISS
SECOND AMENDED COMPLAINT
2:23-cv-07058-FMO-PVC